

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

=====X Indictment: CR-13-607
UNITED STATES OF AMERICA

- against -

AFFIDAVIT

PHILLIP A. KENNER, and TOMMY
C. CONSTANTINE, also known as
"Tommy C. Hormovitis",

Defendants.

=====X
PHILLIP A. KENNER, being duly sworn deposes and says:

1. I am the defendant in the above captioned matter and I submit this affidavit in support of the motion of my attorney, Richard D. Haley, to permit me to inspect the original files/documents/data contained on my MacBook computer and i-Phone seized pursuant to a search warrant executed on November 13, 2013. I also submit this affidavit in support of my attorney's motion to obtain the testimony of Kenneth Jowdy and John Kaiser at a detention hearing to be scheduled by the court, after directing the government to disclosure all forged and fictitious documents allegedly created by me and to be introduced at trial as claimed by government in its detention letter to the court, dated November 13, 2013.

2. My MacBook computer and i-Phone contain files/documents/data and other material of personal nature spanning a period of approximately twenty (20) years. The electronic devices also contain files/documents/data material to the preparation of my defense. It is my desire to view the original files/documents/data contained on my MacBook computer and i-Phone.

3. Although my prior attorney, Randi Chavis,, provide me with two (2) one terabyte portable hard drives which contain copies of the files/document/ data contained on my MacBook computer's hard drive according to the government, I have been able to access only a small portion of the files/documents/data contained on the two (2) portable hard drives through the use of the only

computer available to me at the Queens Private Correctional Center--a P.C. desktop computer. I have reviewed the letter of my attorney, dated July 16, 2014, addressed to the government which accurately describes the problem I have encountered in trying to access the files/documents/data on the two (2) portable hard drives. I was also present in court on June 6, 2014 when my attorney explained the problem I had encountered in accessing the files/documents/data on the two (2) portable hard drives to the court in the presence of the government.

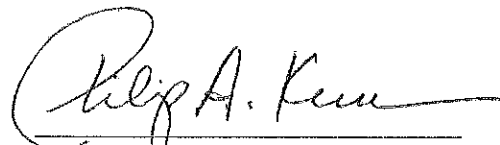
4. I have reviewed Exhibit A to this motion titled "Revolving Line of Credit Loans 12-7-2004" which was provided to me on or about August 29, 2014 as part of the government's Rule 16 obligation. The assertion by Kenneth Jowdy that I forged his signature on Exhibit A is a lie. I saw Kenneth Jowdy sign his name to Exhibit A and I saw Robert Gaudet sign his name as "witness" to Kenneth Jowdy's signature. Kenneth Jowdy retained the original of Exhibit A and provided a photocopy to me.

5. I was present at the proceeding entitled Diana Nolan, an individual, and Owen Nolan, an individual v. Phillip Kenner, an individual, Standard Advisers, Inc., a Delaware Corporation and Standard Advisers, LLC, a Delaware Limited Liability Company, conducted by the American Arbitration Association (AAA) in May 2009 when Robert Gaudet testified that he witnessed Kenneth Jowdy sign Exhibit A. A copy of the excerpt of his testimony before the AAA is attached as part of this motion.

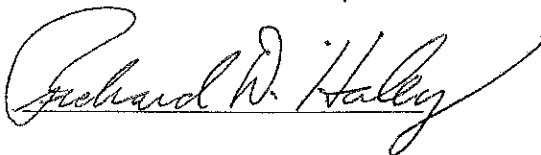
6. I have reviewed Exhibit B and Exhibit C to this motion titled "Funding Consulting Agreement", dated December 15, 2004, and "Funding Consulting Agreement", dated June 1, 2005 which were provided to me on or about August 29, 2014 as part of the government's Rule 16 obligation. The assertion by John Kaiser that I forged his signature on Exhibit B and Exhibit C is a lie. I saw John Kaiser sign his name on both Exhibit B and Exhibit C.

7. I have reviewed Exhibit D titled "Procuraduria General De Justicia Del Estado De Baja California Sur" which was provided to me on or about August 29, 2014 as part of the government's Rule 16 obligation. I did not see John Kaiser sign his name to Exhibit D and cannot attest to its authenticity. I recognize Exhibit D, which bears the stamp of the municipal public official in Mexico, as a document filed in connection with a lawsuit commenced in Mexico by Joseph Stumpel against Kenneth Jowdy. I was not a party to the Stumpel-Jowdy lawsuit nor do I have any financial interest in its outcome. The assertion by John Kaiser that I forged his signature to Exhibit D is a lie.

8. At no time did I forge another person's signature or create fictitious documents as alleged in the government's detention to the court and request that subpoenas issue for Kenneth Jowdy and John Kaiser to appear in court at a detention hearing to be examined by the court, the government and my attorney.


Phillip A. Kenner

Sworn to before me this
22nd day of October, 2014



RICHARD D. HALEY
NOTARY PUBLIC, State of New York
No 52-4965026
Qualified in Suffolk County
Commission Expires April 16, 2016